IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL NO. 375 OF 2003

Commissioner of Wealth-Tax
Mumbai City-3 .. Appellant

V/s

M/s Rishiraj Merchandise (P) Ltd. .. Respondent

Mr.A.N. Kotangale with Mr.S.R. Chauhan and Mr.A.D. Nagarjun for the Appellant.

Mr.J.D. Mistri with Mr.Raj Darak for the Respondent.

CORAM : H.L. GOKHALE & J.P. DEVADHAR, JJ.

DATE : 15th September 2006

P.C. :

1. Heard Mr.Kotangale in support of this Appeal. Mr.Mistri appears for the Respondent.

2. The question sought to be raised in this appeal is as follows:-

> "(a) In the facts and circumstances of the case and in law, whether the rent and deposit received by the intermediary tenant from the ultimate user of the premises or the rent and deposit received by the assessee from the

intermediary tenant, who never occupied the premises is to be taken for the computation of the net wealth of the assessee for valuation under Rule 3 of Part B of Schedule III of the Wealth Tax Act, 1957?

(b) Whether the deposits received from the tenants for letting out the immovable properties which were included in the net wealth of the assessee could be treated as a debt incurred in relation to assets which forms part of the net wealth of the assessee and allowed as deduction u/s 2(m) of the Wealth Tax Act, 1957 when the deposits were not taken for the purpose of acquiring the properties?"

3. The Tribunal has given a clear finding in the present case that the disputed income has been assessed in the hands of the intermediary and not in the hands of the assessee. That is seen from para 10 of the order of the Tribunal. That being the position, there is no occasion to frame this question of law and to go into the same. Appeal is dismissed.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR J.)